



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

STATE AGENCY: California State University
MULTI-COUNTY: California Joint Powers
Insurance Authority
Metropolitan Water District of
Southern California
Santa Maria-Bonita School
District

A written comment period has been established commencing on **December 26, 2008**, and closing on **February 9, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branaman, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **February 9, 2009**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. SECRETARY OF STATE

TITLE 2. DIVISION 7. CHAPTER 8.

NOTICE IS HEREBY GIVEN that the Secretary of State intends to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Secretary of State proposes the following regulatory action: Adopt Sections 20810, 20811, 20812, 20813, 20814, 20815, 20816, 20817, 20818, 20819, 20820, 20821, 20822, 20823, 20830, 20831, 20832, 20833, 20840, 20841, and 20842, of Chapter 8 of Division 7 of Title 2 of the California Code of Regulations.

AUTHORITY AND REFERENCE

Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code. Reference: Sections 15600 and 15601, Elections Code

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Elections Code Sections 15600 through 15634 establish the statutory framework for the conduct by a local elections official of a recount of ballots cast in a California ballot measure or public office election.¹ Sections

¹ Elections Code Section 320 defines "elections official" as follows:

"Elections official" means any of the following:

(a) A clerk or any person who is charged with the duty of conducting an election.

(b) A county clerk, city clerk, registrar of voters, or elections supervisor having jurisdiction over elections within any county, city, or district within the state."

"Voting system" is defined by Elections Code Section 362 as "any mechanical, electromechanical, or electronic system and its software, or any combination of these used to cast or tabulate votes, or both."

All statutory references are to the Elections Code, unless otherwise indicated. The regulations of the Secretary of State are contained in Sections 19001 through 22610.4 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 7 of the California Code of Regulations, unless otherwise indicated.

19200 through 19216 give the Secretary of State exclusive authority to examine voting systems and approve or withhold approval for their use in elections in the state. In Section 15601, the Legislature directed the Secretary of State to adopt regulations to specify the procedures for recounting ballots cast using each voting system approved for use in the state. The Secretary of State drafted a single set of proposed regulations applicable to all approved voting systems.

Proposed regulation 20810 would declare that the purpose of the proposed recount regulations is to establish standards and procedures for conducting voter-requested recounts of votes cast for all elections in the state.

Proposed regulation 20811 would establish definitions for key terms used in the proposed recount regulations.

Proposed regulation 20812 would specify that any voter may request a recount by complying with the requirements of Elections Code Sections 15620, 15621 or 15623; require the elections official to verify that the person making the request is a registered voter; and permit any other voter, during the recount or within 24 hours after completion of the recount, to request the recount of any precincts not recounted under the original request.

Proposed regulation 20813 would require the elections official to produce relevant material for examination by the recount requestor in response to a written request prior to the completion of recounting; define "relevant material" broadly to include ballot envelopes, electronic records of votes, voting system logs, results of logic and accuracy testing, event logs from polling places, partial and final vote tally results, and video recordings and logs related to election security.

Proposed regulation 20814 would authorize the elections official to determine the order in which precincts are to be recounted unless the order is specified in the recount request, and permit the requester to request in writing a change in the order of precincts, subject to approval by the elections official.

Proposed regulation 20815 would specify the method by which the elections official estimates, and the requestor deposits in advance, each day's costs to conduct the recount; require provision of deposit receipts; require refund of unexpended deposit amounts to the requestor; and authorize the elections official to terminate the recount for failure to make timely deposits. Proposed regulation 20815 would also require the elections official to estimate, and the requestor to pay in advance, the costs necessary to produce relevant material.

Proposed regulation 20816 would specify requirements for the location chosen by the elections official to conduct the recount, to ensure that representatives of interested parties, bona fide associations of citizens and

media organizations may observe the recount. Proposed regulation 20816 would also authorize the elections official to limit to no more than 10 the number of observers representing bona fide associations of citizens and media organizations, selected in a manner to give each entity an equal opportunity to participate.

Proposed regulation 20817 would require each elections official, within 6 months of the effective date of the proposed regulations, to establish written security measures for recounts, including a requirement for a minimum of two recount board members to perform critical security processes; chain of custody controls; signature verification of electronic voting paper trail records, voted, spoiled and unused ballots and all “relevant material”; serialization of tamper-evident seals applied to voting system components; and permitting, upon request, authorized recount observers to inspect the integrity of externally visible seals used to secure recount materials.

Proposed regulation 20818 would require the local elections official, prior to the recount, to determine the number of recount boards required for timely completion, appoint the members of each four-person recount board, compile precinct tallies and running tallies, and determine whether additional personnel are required. Proposed regulation 20818 would also require one supervisor for every two recount boards.

Proposed regulation 20819 would require the elections official to establish and post the daily schedule for the recount, and prohibit a recount board from stopping for a break or lunch while recounting a precinct.

Proposed regulation 20820 would authorize the elections official to require interested parties, such as the requestor, candidates for the office or proponents or opponents of a ballot measure subject to recount, to appoint a representative as a spokesperson through whom questions are channeled, and require observers to log in and wear identification badges. Proposed regulation 20820 would also prohibit requestors, interested parties, representatives and observers from interfering with the recount, assisting in recount procedures, touching voting system components or ballots and other recount materials, or talking to recount workers while they are conducting recount activities. The regulation would authorize the elections official to deny entry to any person who fails to comply with these requirements.

Proposed regulation 20821 would require the elections official, within six months of the effective date of the recount regulations, to develop a written policy providing reasonable media access to the recount location, including use of cameras or audio or video recording devices in a manner that will not interfere with the recount.

Proposed regulation 20822 would require the elections official to announce publicly at the end of each day

the results of the tally of precincts tallied that day and the cumulative recount tally. Proposed regulation 20822 would also require the elections official, in elections in which the results of the completed recount change the outcome of an election, to post the recount results publicly and refund all monies deposited for the recount by any requestor in whose favor the recount changed the outcome of the election. In local contests, the proposed regulation would require the elections official to recertify the results of the recounted contest and send a copy of the recertification to the public official or governing body that declares the results of the election subject to recount. In a contest for statewide office, Assembly, State Senate, Presidential convention delegate or elector, Congress, State Board of Equalization, Supreme Court or Court of Appeal, the proposed regulation would require the elections official to transmit one copy of the recount results to the Secretary of State.

Proposed regulation 20823 would provide the procedure by which a challenged ballot is handled, and a final determination made and recorded by the elections official as to whether the challenged ballot will or will not be added to the count, and would require the elections official to make that determination on the same day the ballot was challenged.

Proposed regulation 20830 would establish the procedures for recounts conducted using the same type of vote tabulating device used in the election, conducted as nearly as possible using the same methods used to tabulate ballots originally, and would require the elections official to report separately the results of the recount for each precinct subject to recount, including the number of ballots undervoted and overvoted. At the conclusion of the tabulation, the regulation would require a public logic and accuracy test of each tabulation device used in the recount, with the results of the test and the test deck used in the test available for inspection on request by the requestor, spokespersons and observers.

Proposed regulation 20831 would establish procedures for manual recounts generally and require that vote by mail and early-voted ballots be recounted separately from ballots cast in a polling place on Election Day.

Proposed regulation 20832 would establish procedures for manual recounts by the recount boards in “Vote for One” contests, including pre-count sorting into ballots that were not voted for the contest (undervoted), ballots that were over-voted for the contest, and ballots that were voted for the contest, sorted by candidate or position.

Proposed regulation 20833 would establish procedures for manual recounts in “Vote for Multiple” contests, similar to those in proposed regulation 20832.

Proposed regulation 20840 would establish requirements and procedures for recounts on direct recording

electronic voting systems using electronic vote results, including a requirement for a pre-count public logic and accuracy test of each direct recording electronic voting system used in the recount.

Proposed regulation 20841 would establish requirements and procedures for recounts of votes cast on a direct recording electronic voting system based on an automated scan and tabulation of the voted ballots directly from the voter verified paper audit trail record, a method that could be employed only if the Secretary of State has tested and approved the automated scan method as part of the approval of the voting system. The proposed regulation would require a pre-count public logic and accuracy test of each direct recording electronic voting system used in a recount employing this method.

Proposed regulation 20842 would establish requirements and procedures for recounts of votes cast on a direct recording electronic voting system by manually counting the voter verified paper audit trail records.

PUBLIC HEARING

The Secretary of State will consider the proposed regulations at a public hearing on March 4, 2009, at the offices of the Secretary of State, 1500 11th Street, Sacramento, California, commencing at 10:00 a.m.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Secretary of State's office. Written comments concerning the proposed rulemaking must be received by 5:00 p.m. on March 13, 2009. The Secretary of State's office will consider only comments received by that time. Submit written comments to the contact indicated below.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Secretary of State's office must determine that no reasonable alternative has been identified that would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Secretary of State invites persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Secretary of State's office will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the address indicated below. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed regulations and the initial statement of reasons. The initial statement of reasons includes the express terms of the proposed action and the information upon which the proposed action is based. Copies are posted on the Secretary of State's web site at <http://www.sos.ca.gov/business/business.htm> and may also be obtained from the contact indicated below.

AVAILABILITY OF THE TEXT IN PLAIN ENGLISH

The text of the proposed regulations is available in plain English from the contact person indicated below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Secretary of State's office may adopt the proposed regulations substantially as described in this notice. If the Secretary of State's office makes modifications that are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Secretary of State's office adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the contact indicated below. The Secretary of State's office will accept written comments on the modified regulations for 15 days after the date on which they are made available generally.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Secretary of State has made the following initial determinations:

1. **Mandate on local agencies and school districts:** None.
2. **Cost or savings to any state agency:** None.
3. **Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:** None.
4. **Other nondiscretionary cost or savings imposed on local agencies:** None.

5. **Cost or savings in federal funding to the state:** None.
6. **Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states:** None. This proposed regulation merely proposes to implement, interpret or make specific existing requirements and procedures for election recounts as set forth in the Elections Code. The proposed regulation, therefore, has no impact directly affecting business.
7. **Cost impacts on a representative private person or businesses:** None. The Secretary of State's office is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
8. **Adoption of these regulations will not:**
 - (A) create or eliminate jobs within California;
 - (B) create new businesses or eliminate existing businesses within California; or
 - (C) affect the expansion of businesses currently doing business within California.
9. **Significant effect on housing costs:** None.
10. **Effect on small business:** None. This proposed regulation merely proposes to implement, interpret or make specific existing requirements and procedures for election recounts as set forth in the Elections Code. The proposed regulation, therefore, has no impact directly affecting small business.

CONTACT

Any inquiries should be made to Lowell Finley, Office of the Secretary of State, 1500 11th Street, 6th Floor, Sacramento, CA 95814; telephone (916) 653-7244; e-mail lfinley@sos.ca.gov. Backup contact: Pam Giarrizzo, Office of the Secretary of State, 1500 11th Street, 6th Floor, Sacramento, CA 95814; telephone (916) 653-7244; e-mail pgiarrizzo@sos.ca.gov.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine as an emergency action that was effective August 25, 2008. The Department proposes to continue the reg-

ulation as amended and submit a Certificate of Compliance for this action no later than February 23, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine as an emergency action that was effective October 14, 2008. The Department proposes to continue the regulation as amended and submit a Certificate of Compliance for this action no later than February 23, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine as an emergency action that was effective October 17, 2008. The Department proposes to continue the regulation as amended and submit a Certificate of Compliance for this action no later than February 23, 2009.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before February 9, 2009.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

The amendment of Section 3423(b) established a quarantine area of approximately 109 square miles surrounding the Lakewood area of Los Angeles and Orange counties. The effect of the change is to provide authority for the State to regulate movement of hosts of Oriental fruit fly from, into, and within that area under quarantine to prevent artificial spread of the fly to non-infested areas to protect California's agricultural indus-

try. The proposed action does not differ from any existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3423. No reimbursement is required for Section 3423 under Section 17561 of the Government Code because the agricultural commissioners of Los Angeles and Orange counties requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. A representative person or business could incur costs of approximately \$88 per year in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Section 3423(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING DESIGNATION OF COMMISSION EMPLOYEES SUBJECT TO THE PROVISIONS OF BUSINESS AND PROFESSIONS CODE SECTION 19981 CGCC-GCA-2008-R-5

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest.

NO PUBLIC HEARING SCHEDULED

At this time, the Commission has not scheduled a public hearing. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under Contact Persons no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any

time during the 45-day public comment period, which closes on February 9, 2009.

To be considered for summary and response, written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Persons in this Notice, must be received by the Commission at its office no later than 5:00 p.m. on February 9, 2009. Comments sent to persons or addresses other than those specified under Contact Persons, or received after the date and time specified above, regardless of the manner of transmission, will be included, but will not be summarized or responded to, in the record of this proposed regulatory action.

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 19840, 19841 and 19981 of the Business and Professions Code; and to implement, interpret or make specific Section 19981 of the Business and Professions Code;¹ the Commission is proposing to adopt the following changes to Chapter 11 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Introduction:

The California Gambling Control Commission (Commission) is proposing to adopt a regulation that would implement a designation of effected Commission employees in accordance with subdivision (a) of section 19981. The proposed regulation is intended to assist in preserving the Commission's credibility, independence, and ability to make unbiased and objective decisions. In addition, this prohibition should elimi-

¹ All statutory references hereafter are to the Business and Professions Code, unless otherwise specified.

nate, or at least lessen, even the appearance of any unfair advantage and/or undue influence affecting the outcome of proceedings before the Commission.

Background:

This statutory prohibition was originally established by the Milton Marks Public Employees Restoration Act of 1990, part of the Political Reform Act of 1974, which prohibited former employees from representing another, for compensation, for a period of one year. That prohibition was expanded to prohibit this representation for a period of three years from separation of employment in Chapter 867, Statutes of 1997 (Senate Bill 8, Lockyer)².

Specific Proposal:

The proposed regulation would establish a new section in Chapter 11 Division 18 that will designate those Commission employees who are precluded from providing representation of another, for compensation, before the Commission following separation from their employment with the Commission for a period of three years. This proposed regulation would prohibit these employees from representing licensees in any administrative action or other proceeding where the Commission has authority to issue, condition or revoke a permit, license or approval.

Existing Law:

Subdivision (a) of section 19981 provides, in pertinent part, that the Commission shall designate employees who, upon separation from employment, cannot act in certain capacities on behalf of a licensee or applicant for a period of three years.

Current regulations do not include any designation as to the Commission employees that may be subject to the provisions of section 19981.

Effect of Regulatory Action:

This proposed action will add Section 12591 to Chapter 11 of Division 18 of Title 4 of the California Code of Regulations. Section 12591 will designate those Commission employees, in addition to Commission members and the Commission's Executive Director, who are banned from appearances or communications before the Commission as provided in subdivision (a) of section 19981. These former Commission employees are specifically precluded from providing representation of another, for compensation, for a period of three years following separation from employment with the Commission.

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE: None.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES: None.

LOCAL MANDATE: None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH THE GOVERNMENT CODE REQUIRES REIMBURSEMENT (Part 7 (commencing with section 17500) of Division 4, Government Code): None.

IMPACT ON BUSINESS:

The Commission has made an initial determination that the adoption of these regulations would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the regulation being proposed for adoption does not affect businesses. The regulation is only applicable to individuals employed by the Commission, as specified, upon separation from that employment.

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON HOUSING COSTS: None.

EFFECT ON SMALL BUSINESS:

The Commission has determined that the proposed regulatory action would not affect small businesses. This initial determination is based on the fact that the regulation being proposed for adoption does not affect any business. The regulation is only applicable to individuals employed by the Commission, as specified, upon separation from that employment.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would either be more

² Ch. 867, Stats. 1997, established the initial 3-year prohibition with the amendment of then § 19959.5. Ch. 738, Stats. 2002 (AB-2431, Com. on Gov. Org.) renumbered that section to the current § 19981.

effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Coordinator
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento,
CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0452
E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joy Calkin, Staff Services Analyst
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento,
CA 95833-4231
Telephone: (916) 263-3628
Fax: (916) 263-0452
E-mail: Jcalkin@cgcc.ca.gov

WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission's Web site at www.cgcc.ca.gov.

TITLE 22. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 22, California Code of Regulations
SUBJECT: Continuing Education for Registered Environmental Health Specialists,
DPH-05-011

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health (CDPH) will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to California Public Health Act of 2006 (Act; S. B. 162, Section 1, Chap. 241, Stats. 2006), effective July 1, 2007, the CDPH has authority to adopt the subject regulations.

The CDPH administers a registration program for environmental health specialists under California Health and Safety Code (HSC) Sections 106600-106735. CDPH is authorized to develop regulations establishing the requirements and standards for continuing education for each Registered Environmental Health Specialist (REHS) pursuant to HSC Section 106705. Upon the recommendation of the Environmental Health Specialist Registration Committee, CDPH is proposing to adopt continuing education standards for REHS. The proposed regulations will require a minimum of 24 contact hours of continuing education as a condition for the biennial registration renewal for REHSs. REHSs are employed by private industry, state and local organiza-

tions to monitor and enforce environmental and public health laws and regulations. Continuing education will assist in maintaining the competency of REHSs in the dynamic field of environmental health.

The California Environmental Health Association, California Conference of Directors of Environmental Health, California Conference of Local Health Officers, and members of the environmental health community have identified continuing education as a key element in the development of competent and effective environmental health professionals. These regulations will be adopted into the California Code of Regulations, Title 22, Division 4, Chapter 23, Article 1, Sections 65800–65808.

The effect of these regulations will be:

- REHSs will be required to complete a minimum of 24 contact hours of approved continuing education every two years in order to apply for biennial environmental health specialist registration renewal. Contact hour time requirement and equivalent conversions are established.
- Organizations may apply to become continuing education Accreditation Agencies.
- Cause for revocation of approval of an Accreditation Agency is established.
- Acceptable topics and subject matter for continuing education are established.
- Criteria for continuing education courses and requirements for recognized providers are established.
- A requirement for continuing education providers to furnish certificates of completion for students is established. Information to be displayed on the certificates is established.
- Criteria for approval of coursework submitted by providers, as well as audit requirements, are established.
- Allowable reasons for exemptions from the continuing education requirements are established. These include serious illness and military service.
- Instructors may receive continuing education credit for each course they teach during the renewal period. Instructors will not be granted credit for the same course or other courses with substantially the same content more than once with the same renewal period.
- A complaint mechanism whereby a provider may appeal a decision of the accreditation agency is specified.

The proposed regulations adopt new Sections 65800, 65801, 65802, 65803, 65804, 65805, 65806, 65807 and

65808 in Title 22, Division 4, Chapter 23, Article 1, California Code of Regulations.

AUTHORITY

Sections 106610, 106705 and 131200, Health and Safety Code.

REFERENCE

Sections 106705, 131050, 131051 and 131052, Health and Safety Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on February 9, 2009, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1–800–735–2929, if you have a TDD; or 1–800–735–2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand–delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899–7377. It is requested but not required that written comments sent by mail or hand–delivered be submitted in triplicate; or
2. By fax transmission: (916) 440–5747; or
3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier “DPH –05–011” in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author’s name and U.S Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Glenn Takeoka of Drinking Water Branch at (916) 449–5693.

All other inquiries concerning the action described in this notice may be directed to Maureen Miyamura of the

Office of Regulations and Hearings at (916) 440-7841, or to the designated backup contact person, Barbara Gallaway, at (916) 440-7689.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-05-011.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations and Hearings at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: There is a possible impact on local government if the employer is a local government and it chooses to pay the cost of continuing education for employees. This cost is estimated at \$120.00 a year for each employee.
- B. Fiscal Effect on State Government: Additional expenditures of approximately \$97,000 in the current State Fiscal Year. It is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources. There is a minor and absorbable cost impact on state government if the state chooses to pay the cost of continuing education for employees. This total cost is estimated at \$23,000 a year ($\$120 \times 191 = \$23,000$) for 191 state employees who are currently registered.
- C. Fiscal Effect on Federal Funding of State Programs: No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The average cost of this regulation to an individual would be \$120.00 annually, based on cost information from continuing education courses that are currently offered.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code, nor are there other non-discretionary costs imposed.

The Department has made an initial determination that the regulations would not have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.

- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations may affect small business.

The Department has determined that the regulations will have no impact on housing costs.

The proposed regulations require Accreditation Agencies to annually report the findings of approved coursework sample reviews to the Department. It is necessary for the health, safety, or welfare of the people of the state that the regulations apply to business.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Miyoko Sawamura, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, voice (916) 440-7690 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

TITLE 24. BUILDING STANDARDS COMMISSION/STATE LANDS COMMISSION

NOTICE OF PROPOSED RULEMAKING BY CALIFORNIA STATE LANDS COMMISSION

REGARDING THE 2007 CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS,

TITLE 24, PART 2

CHAPTER 31F, MARINE OIL TERMINALS

Notice is hereby given that the California State Lands Commission (CSLC) proposes to adopt regulations. The CSLC is proposing to modify Title 24, California Code of Regulations, Part 2, Chapter 31F, Marine Oil Terminals.

PUBLIC COMMENT PERIOD

The CSLC Staff will hold a public hearing. It will start at 10:00 a.m. on February 24, 2009, at the Port of Long Beach Board Room, 925 Harbor Plaza, Long Beach, CA 90802. The location is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing, relevant to the proposed regulatory action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing they attend.

This notice, express terms and initial statement of reasons are also displayed on the CSLC website.

Written comments will be accepted by the California State Lands Commission regarding the proposed changes until 5:00 p.m. on February 24, 2009.

Please address your comments to:

Attention: Ravindra Varma
Marine Facilities Division
State Lands Commission
200 Oceangate, Suite 900
Long Beach, CA 90802

Written comments may also be submitted by facsimile to (562) 499-6317, attention Ravindra Varma or by e-mail to "yarmar@slc.ca.gov".

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CSLC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CSLC adopts, amends, or repeals the regulation(s). CSLC will accept written comments on the modified building standards during the 15-day period, if applicable.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Public Resources Code (P.R.C.) Section 8755 directs the Commission to adopt rules, regulations and guidelines for reviewing the location, type character, performance standards, size and operation of all existing and proposed marine terminals within the state. The proposed changes in regulations would implement, interpret, or make specific the required actions by the marine oil terminals as per references cited in Title 24, California Code of Regulations, Part 2, Chapter 31F. There is no change in authority and reference of the proposed regulatory action.

INFORMATIVE DIGEST

Chapter 31F, Marine Oil Terminals, of the 2001 California Code of Regulations, Title 24, Part 2, California Building Code was published on August 10, 2005 and became effective on February 6, 2006. Subsequently, the Commission's staff determined that a number of sections needed to be updated as the result of reports or studies conducted for the Marine Facilities Division of the CSLC. Additionally, many other changes including, but not limited to, the updating of references, correction of typographical and transcription errors were necessary. The California Building Standards Commission has in the meantime updated the 2001 California Building Code to the 2007 version. The following sections of Title 24, Part 2, Chapter 31F, California Building Code will be affected by the proposed regulatory action:

<u>Section</u>	<u>Title</u>
3102F.1.2	Audit and Inspections Types (Table 31F-2-1)
3102F.1.3	Berthing Systems
3102F.3.2	Overview
3102F.3.3.2	Subsequent Audits
3102F.3.4.3	Structural Inspection Team
3102F.3.4.8	Geotechnical Analyst
3102F.3.5.2	Underwater Structural Inspection (including Tables 31F-2-3 and 31F-2-4)
3102F.3.6.1	Terminal Operating Limits (Figure 31F-2-1)
3102F.3.6.3	Structure (including Table 31F-2-5)
3102F.3.7	Follow-up Actions (Table 31F-2-7)
3102F.4.4	Post-Event Ratings (including Table 31F-2-8)
3102F.5	References
3103F.4.2.2	Earthquake Motions from USGS Maps

3103F.4.2.3	Earthquake Motions from Site-Specific Probabilistic Seismic Hazard Analyses (including Table 31F-3-3 and Figure 31F-3-1)
3103F.4.2.5	Site-Specific Evaluation of Amplification Effects
3103F.4.2.6	Directivity Effects
3103F.4.2.7	Deterministic Earthquake Motions
3103F.5.1	General
3103F.5.2.1.2	Survival Condition
3103F.5.2.3	Static Wind Loads on Vessels
3103F.5.3.1	Design Current Velocity
3103F.5.2.2	Wind Speed Corrections (Figure 31F-3-3 Caption)
3103F.5.3.2	Current Velocity Adjustment Factors (Figure 31F-3-4 Caption)
3103F.5.3.3	Static Current Loads
3103F.5.3.4	Sea Level Rise (SLR)
3103F.5.4	Wave Loads
3103F.5.5	Passing Vessels
3103F.5.7	Tsunamis (including Table 31F-3-8)
3103F.6.1	General
3103F.6.3	Geometric Coefficient (C_g)
3103F.6.5	Configuration Coefficient (C_c)
3103F.6.6	Effective Mass or Virtual Mass Coefficient (C_m)
3103F.6.7	Berthing Velocity and Angle
3103F.7.2	Wind Loads
3103F.8	Load Combinations (including Tables 31F-3-12 and 31F-3-13)
3103F.10.1	Quick Release Hooks
3103F.10.2	Other Fittings (Table 31F-3-15)
3103F.13	References
3104F.2.3.2	Nonlinear Static Demand Procedure
3104F.2.3.2.5	Refined Analyses (Figure 31F-4-4)
3104F.4.5	Shear Key Forces
3104F.4.7	Batter Piles
3104F.8	References
3105F.1.5	Analyses and Design of Mooring Components
3105F.2	Mooring Analyses
3105F.3.2	Passing Vessels
3105F.3.3	Seiche
3105F.4	Berthing Analyses and Design
3105F.4.5	Design and Selection of New Fender Systems
3105F.7	References
3106F.4.2	Simplified Ground Movement Analysis

3106F.5.1	Soil Parameters
3106F.8	References
3107F.1.2	Applicability
3107F.2.1.1	Material Properties (Including Table 31F-7-2)
3107F.2.5.5.2	Confined Concrete Piles (Equation 7-12)
3107F.2.5.4	Plastic Rotation (Table 31F-7-5)
3107F.2.5.7	Shear Capacity (Strength) (including Title)
3107F.2.6.2	Stability
3107F.2.6.5	Component Acceptance / Damage Criteria
3107F.2.6.6	Shear Capacity Strength (including title)
3107F.2.7.1	Joint Shear Capacity
3107F.2.9	Concrete Pile Caps with Concrete Deck
3107F.2.9.1	General (removal of section)
3107F.2.9.2	Plastic Hinge Length (removal of section)
3107F.2.9.3	Ultimate Concrete and Steel Flexural Strains (removal of section)
3107F.2.9.4	Component Acceptance/Damage Criteria (renumbering of section)
3107F.2.9.5	Shear Capacity (strength) (renumbering of section)
3107F.3.1	Component Strength (including Table 31F-7-7)
3107F.3.3.2	Displacement Capacity
3107F.3.3.3	Component Acceptance /Damage Criteria
3107F.3.3.4	Shear Capacity (including title)
3107F.4	Retaining Structures (new text)
3107F.4	Mooring and Berthing Components (renumbering of section)
3107F.4.1	Component Strength (renumbering of section)
3107F.4.2	Mooring and Berthing Component Demand (renumbering of section)
3107F.4.3	Capacity of Mooring and Berthing Components (renumbering of section)
3107F.5	Symbols (renumbering of section)
3107F.6	References (renumbering of section)
3108F.2.2	Fire Plan
3108F.2.3	Cargo Liquid and Fire Hazard Classification (Table 31F-8-1)
3108F.6	Fire Suppression (Table 31F-8-3)
3108F.6.2	Fire Hydrants

3108F.6.3	Fire Water
3108F.7	References
3109F.7	References
3110F.5	Shore-to-Vessel Access for Personnel
3110F.8	Equipment Anchors and Supports
3110F.9	References

After Chapter 31F became effective, the Marine Facilities Division (MFD) of the CSLC held three workshops (two on 2/15/2006 at the MFD office in Long Beach and one on 3/1/2006 at our Northern California Field Office in Hercules) and two question and answer sessions (on 8/30/2007 and 3/20/2008) at the Hercules office. They were attended by the regulated community, consulting engineers and other interested persons. At these workshops, staff of the MFD discussed the effects of Chapter 31F and presented the subject items and the proposed corrections thereto. There were no complaints, discussions or comments from the regulated community or consulting engineering firms, regarding these items. We also indicated, at these workshops, that updates of some sections were imminent, because of new data from studies funded by the CSLC.

Summary of Existing Laws:

As under Section 6111 of the Public Resources Code (PRC), the CSLC is not to adopt building standards directly. In accordance with instructions from the California Building Standards Commission staff, the CSLC is therefore promulgating the proposed Amendments to the 2007 California Code of Regulations (CCR), Title 24, Part 2, California Building Code, Chapter 31F, Marine Oil Terminals.

PRC Section 8755 states, in part, “. . .the commission shall adopt, rules, regulations, guidelines, and commission leasing policies for reviewing the location, type, character, performance standards, size, and operation of all existing and proposed marine terminals within the state, whether or not on lands leased from the commission, and all other marine facilities on lands under lease from the commission to minimize the possibilities of a discharge of oil. Rules, regulations, and guidelines adopted by the commission shall not conflict with regulations of the Administrator or the Coast Guard. The commission shall ensure that the rules, regulations, guidelines, and commission lease covenants provide the best achievable protection of public health and safety and the environment. . . .”

The CSLC believes that the proposed amendments to the standards will enhance these mandates.

Summary of Existing Regulations: The 2007 California Code of Regulations (CCR), Title 24, Part 2, California Building Code, Chapter 31F, Marine Oil Terminals are the only regulations relating to the engineering

analysis, design, rehabilitation, inspection, or maintenance of marine oil terminals.

Summary of Effect:

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other non-discretionary costs or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

Comparable Federal Statute or Regulations None

Policy Statement Overview As mandated in PRC 8750–8760 the CSLC intends to prevent oil spills and protect the public health and safety and the environment. The CSLC believes the proposed amendments to the exiting standards will better meet the mandates of these PRC sections and provide a better level of spill prevention and protection of the public health and safety and the environment than currently exists.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY
OR TO ANY SPECIFIC REGULATION
OR CLASS OF REGULATIONS

None

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

The CSLC has determined that the proposed regulatory action would not impose a reimbursable mandate to local governments, mandate on local agencies or school districts.

INITIAL DETERMINATION OF SIGNIFICANT
STATEWIDE ADVERSE ECONOMIC
IMPACT ON BUSINESSES

CSLC has determined there will not be a significant statewide adverse economic impact on businesses, as these proposed amendments correct, update and modify the current code relating to marine oil terminals.

- A. Identification of the types of businesses that would be affected: Marine Oil Terminals
- B. A description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action: The proposed action would add the requirement of the generation of a “Tsunami Plan” for each of the marine oil terminals, based on the information provided in the proposed changes to the Code.

- C. The CSLC has made an initial determination that the adoption of these proposed amendments to the California Building Code will not have a statewide adverse economic impact on businesses, including the ability of California businesses to compete in other states. Private businesses (owners and operators of Marine Oil Terminals) will not incur costs as a result of these proposed amendments to the standards.

The CSLC has not received and therefore has not considered any proposed alternatives that would lessen any adverse impact on business and invites interested parties to submit proposals that may be equally effective and less burdensome. Per Gov.C.11346.5(a)(7), submissions may include the following considerations:

- (i) The establishments of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

FINDING OF NECESSITY FOR THE PUBLIC’S
HEALTH, SAFETY, OR WELFARE

PRC 8755(a) states, in part, that “. . .The Commission (CSLC) shall ensure that the rules, regulations, guidelines, and commission lease covenants provide the best achievable protection of public health and safety and the environment. . .” The Commission believes these proposed amendments to the standards help provide the protection mandated and finds that as per Gov. Code 11346.3(c) it is necessary for the protection of public health and safety and the environment, or welfare of the people of the state that regulations apply to businesses.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

The CSLC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The purpose of these proposed amendments to existing standards is to update references and correct identified errors, some of which are typographical. Additionally, several sections needed to be updated as the result of reports or studies conducted for the Marine Facilities Division of the CSLC. These changes will continue to ensure that the facilities regulated by these standards are fit-for-purpose and that the best achievable

protection of the public health, safety, environment and the state's infrastructure will continue to be achieved.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The CSLC has assessed whether or not and to what extent this proposal will affect the following:

1. The creation or elimination of jobs within the State of California.

The proposed amendments to Chapter 31F of the California Building Code will not create jobs within California, because they only correct or slightly modify the existing Code and do not change the overall effect of it.

2. The creation of new businesses or the elimination of existing businesses within the State of California.

It will not create new businesses or eliminate existing businesses within California.

3. The expansion of businesses currently doing business with the State of California.

The proposed will not affect the expansion of businesses currently doing business within California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The CLSC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The CSLC must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

To date, no other alternatives have been presented to or considered by the CSLC, regarding the proposed amendments to the 2007 Title 24, CCR, Part 2 California Building Code, Chapter 31F.

The CSLC invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing(s) or during the written comment period.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed amendments to the standards are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California State Lands Commission website:

http://www.slc.ca.gov/Division_Pages/MFD/MFDHome_Page.html

CSLC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

Ravindra Varma, Supervisor, Planning Branch
Marine Facilities Division
California State Lands Commission
200 Oceangate, Suite 900
Long Beach, CA 90802
562-499-6400
562-499-6317 (fax)
varmar@slc.ca.gov

Please direct requests for copies of the proposed text of the standards, the initial statement of reasons, the modified text of the proposed standards, if any, or other information upon which the rulemaking is based to Mr. Ravindra Varma at the above address.

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Martin L. Eskijian, P.E., Supervising Engineer
Marine Facilities Division
California State Lands Commission
200 Oceangate, Suite 900
Long Beach, CA 90802
562-499-6312
562-499-6317(fax)
eskijim@slc.ca.gov

FINAL STATEMENT OF REASONS

If the proposed amendments are adopted, the CSLC will prepare a Final Statement of Reasons. This docu-

ment will update the Initial Statement of Reasons and respond to public comments. The documents can be obtained from the CSLC contact persons named in this notice. The Final Statement of Reasons will also be available on the website of the CSLC:

http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home_Page.html

GENERAL PUBLIC INTEREST

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH CARE SERVICES INTENDS TO REVISE THE RATE METHODOLOGY FOR MEDI-CAL MENTAL HEALTH SERVICES AND ESTABLISH A CPE-BASED SUPPLEMENTAL PAYMENT PROGRAM FOR UNCOMPENSATED MEDI-CAL MENTAL HEALTH COSTS

The California Department of Health Care Services (DHCS) is issuing this notice to provide information of public interest regarding Medi-Cal mental health services. DHCS intends to seek federal approval of the certified public expenditure (CPE)-based supplemental payment program and changes to the rate methodology by submitting an amendment to California's Medicaid State Plan. These proposed changes will be effective for dates of service on or after January 1, 2009.

DESCRIPTION OF AMENDMENT

Certain negotiated rate methodology would be removed from the State Plan (or appropriately amended) to conform to Welfare and Institutions Code section 5705 and other applicable sections of state law, and a description of the State's existing reimbursement methodology for mental health services would be clarified.

Additionally, a CPE-based supplemental payment program for uncompensated care costs would be established in an effort to implement maximization of federal financial participation. Under this program, counties would be authorized to CPE their uncompensated Medi-Cal mental health costs.

Definitions and outmoded terminology would also be amended within the provisions of the State Plan addressing mental health services for purposes of clari-

fication and consistency of cross-reference throughout the State Plan.

PUBLIC REVIEW AND COMMENTS

Copies of the proposed changes are available for public review at local county welfare offices throughout the State. Written comments or requests for copies of the proposed changes may be submitted to:

Dina Kokkos-Gonzales, Chief
Waiver Analysis Section
Medi-Cal Benefits, Waiver Analysis
and Rates Division
Department of Health Care Services
P.O. Box 997417 MS 4601
Sacramento, CA 95899

ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

OFFICE OF ADMINISTRATIVE LAW

ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

(Pursuant to title 1, section 270, of the California Code of Regulations)

BOARD OF PAROLE HEARINGS

Agency being challenged:

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Kathleen Eddy, Senior Counsel
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Donald Miller
P.O. BOX 687
Walnut, CA 91788

Agency contact:

Alice Cummins, Legal Analyst
Board of Parole Hearings
P.O. BOX 4036
Sacramento, CA 95812

Please note the following timelines:

Publication of Petition in Notice Register: December 26, 2008

Deadline for Public Comment: January 26, 2009

Deadline for Agency Response: February 9, 2009

Deadline for Petitioner Rebuttal: No later than 15 days after receipt of the agency's response

Deadline for OAL Decision: April 27, 2009

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

Miller Paralegal
Dr. Donald A. Miller, J.D.
P.O. Box 687
Walnut, CA 91788
Telephone (626) 839-0900
Fax (626) 839-0068
e-mail law@docmil.com

**PETITION TO THE OFFICE OF
ADMINISTRATIVE LAW**

Re: Alleged Underground Regulation
From: Donald A. Miller
Date: October 13, 2008

Petitioner:

Name: Donald A. Miller
Address: P.O. Box 687, Walnut, CA 91788
Telephone: (626) 839-0900
E-Mail law@docmil.com
Fax: (626) 839-0068

State agency or department being challenged:

Board of Parole Hearings (BPH)
(division of California Department of Corrections and Rehabilitation (CDCR))

Regulation challenged:

The Board of Parole Hearings (BPH) has an unwritten regulation that prohibits lifers (indeterminately sentenced inmates) from presenting witnesses in their behalf at their parole hearings and that precludes the attendance and testimony of such persons at parole hearings.

Relevant facts:

1. The BPH has established and strictly enforces an unwritten regulation at all CDCR prisons which prohibits all lifers from presenting witnesses at their parole hearings conducted by BPH panels of commissioners and deputy commissioners, and which prohibits such potential witnesses from attending and testifying.

2. Parole hearings are not adversarial hearings; they are fact-finding hearings at which the panels must weigh evidence of the subject's suitability for parole, i.e., the risk to public safety that a grant of parole would pose. 15 CCR §§ 2280-2281, 2401-2402; see *In re Lawrence* (2008) 44 Cal.4th 1181, 1212, 1217, 1226-1227.

3. Accordingly, BPH hearing panels are mandated to consider "all relevant, reliable information available . . ." 15 CCR §§ 2281(b), 2402(b).

4. Statutes and regulations have been enacted that permit victims and specified members of victims' families and kin to personally attend these hearings to testify on the issue of the inmate's suitability for parole. Penal Code §§ 3042-3043.6; 15 CCR § 2029 et seq. Predictably, nearly all such testimony disfavors a parole grant. Victims and their kin have been allowed to attend lifer hearings since well *prior to* enactment of said statutes and regulations.

5. While various regulations list classes of individuals who may attend or testify at parole hearings, no statutes or regulations exist that either permit or prohibit lifers from presenting witnesses to testify at their parole hearings on the subject of their suitability for parole.

6. Because at these hearings the BPH panels must determine whether the subject is suitable for parole and must consider "all relevant, reliable information available," the direct testimony on that subject by persons who know the inmate may be crucial to the panel's determination.

7. Every individual whom such inmates have requested to be present to testify at their hearings, and every request by such persons to do so has been denied by BPH pursuant to its unwritten regulation. The regulation challenged is firmly enforced 100% of the time by BPH at all institutions against all life prisoners (of which there are now approximately 23,000).

8. The attached exhibits illustrate the challenged regulation. The statutes and regulations referenced in the BPH responses do not prohibit these witnesses.

Respectfully submitted

/s/
Donald A. Miller
Petitioner

CERTIFICATIONS

I certify that I have submitted a copy of this petition and all attachments to the Board of Parole Hearings and Department of Corrections and Rehabilitation, which have issued, uses, and enforces the regulation challenged herein:

Matthew Cate, Secretary, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001 (telephone (916) 445-7682);

Martin Hoshino, Executive Officer, Board of Parole Hearings, P.O. Box 4036, Sacramento, CA 95812-4036 (telephone (916) 445-4071).

I certify that all of the above information is true and correct to the best of my knowledge.

Date: October 13, 2008

/s/
Donald A. Miller
Petitioner

**SUSPENSION OF
ACTION REGARDING
UNDERGROUND REGULATIONS**

OFFICE OF ADMINISTRATIVE LAW

**SUSPENSION OF ACTION REGARDING
UNDERGROUND REGULATIONS**

**(Pursuant to Title 1, section 280, of the
California Code of Regulations)**

On September 22, 2008, The Office of Administrative Law (OAL) received a petition challenging Administrative Directive No. 763 issued by the Department of Mental Health as an alleged underground regulation. The Administrative Directive dealt with patients' rights.

On December 11, 2008, Department of Mental Health certified to the OAL that the Department will not issue, use, enforce or attempt to enforce Administrative Directive No. 763; therefore, pursuant to Title 1, section 280 of the California Code of Regulations, OAL must suspend all action on this petition.

DEPARTMENT OF MENTAL HEALTH

1600 Ninth Street
Sacramento, CA 95814

CERTIFICATION PURSUANT TO 1 CCR 280

I, Cynthia A. Radavsky, Deputy Director of Long Term Care Services, California Department of Mental Health (Department), hereby certify:

1. The Department received a copy of a petition filed with the California Office of Administrative Law by William Sargent, on or about September 29, 2008. A copy of the petition is attached hereto as Exhibit A.
2. The Department will not issue, use, enforce, or attempt to enforce the alleged underground regulation, Napa State Hospital Administrative Directive No. 763.
3. A copy of the certification was sent to the petitioner by certified mail, and a copy of the receipt is attached hereto as Exhibit B.

/s/
Cynthia A. Radavsky
Deputy Director
Long Term Care Services
California Department of Mental Health

Dated 12-8-08

EXHIBIT A

CITIZENS COMMISSION ON HUMAN RIGHTS®
*Established in 1969 by the Church of Scientology®
to Investigate and Expose Psychiatric Violations of
Human Rights*

CCHR Human Rights Investigator

William Sargent
27899 Whitmore Road
Millville CA. 96062
Phone 530 472 3299
sarg@jett.net & cchr@jett.net

September 18, 2008

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento CA 95814-4339
www.oal.ca.gov

RE: Petition to Challenge Alleged "Underground Regulations" at Napa State Hospital Administrative Directives (ADs), #485, #763

I am writing to challenge Napa State Hospital (NSH) Administrative Directives (ADs) #485; 763, as alleged "underground regulation" and upon the information and belief I obtained contained herein. Opponents of a proposed rule may file long and complex comments, which the agency must address point by point. (Gov. Code, §§ 11346.8, subd. (a), 11346.9.) (See also *Tide-water Marine Western, Inc. v. Victoria L. Bradshaw, as Labor Commissioner*, 14 Cal.4th 557, 569, 575 (1996))

The *Tidewater* case explains that the Administrative Procedures Act (APA) establishes the procedures by which state agencies may adopt regulations. The agency must give the public notice of its proposed regulatory action (Gov. Code, §§ 11346.4, 11346.5); issue a complete text of the proposed regulation with a statement of the reasons for it (Gov. Code, § 11346.2, subds. (a), (b)); give interested parties an opportunity to comment on the proposed regulation (Gov. Code, § 11346.8); respond in writing to public comments (Gov. Code, §§ 11346.8, subd. (a), 11346.9); and forward a file of all materials on which the agency relied in the regulatory process to the Office of Administrative Law (OAL) (Gov. Code, § 11347.3, subd. (b)), “which reviews the regulation for consistency with the law, clarity, and necessity” (Gov. Code, §§ 11349.1, 11349.3). (Quotation marks mine.)

Tidewater continues that “[o]ne purpose of the APA is to ensure that those persons or entities whom a regulation will affect have a voice in its creation (*Armistead v. State Personnel Board* (1978) 22 Cal.3d 198, 204–205) (*Armistead*)), as well as notice of the law’s requirements so that they can conform their conduct accordingly (*Ligon v. State Personnel Bd.* (1981) 123 Cal.App.3d 583, 588) (*Ligon*)). The Legislature wisely perceived that the party subject to regulation is often in the best position, and has the greatest incentive, to inform the agency about possible unintended consequences of a proposed regulation. Moreover, public participation in the regulatory process directs the attention of agency policymakers to the public they serve, thus providing some security against bureaucratic tyranny.” (See *San Diego Nursery Co. v. Agricultural Labor Relations Bd.* (1979) 100 Cal.App.3d 128, 142–143.)

The agency must devote significant resources to building an agency file that will satisfy the Office of Administrative Law. (Gov. Code, § 11347.3, subd. (b).) Among other things, the agency must establish the necessity of the proposed rule. (Gov. Code, § 11349.1.) In addition, opponents of a proposed rule may file long and complex comments, which the agency must address point by point. (Gov. Code, §§ 11346.8, subd. (a), 11346.9.) (*Tidewater*, supra, at 575.)

Allegations and Contentions

I respectfully allege and contend upon information and belief that NSH rarely, if ever, complies with the Government Code (Gov. Code, § 11340.5) requirements of the APA or the OAL, and NSH did not give the public notice of its proposed regulatory action of enacting and/or revising ADs # 485; 763, NSH did not issue a complete text of the proposed ADs with a state-

ment of the reasons for them, NSH did not give interested parties an opportunity to comment on the proposed ADs, NSH did not respond in writing to public comments, and NSH did not forward a file of all materials on which the agency relied in the regulatory process to the Office of Administrative Law and thus precluded the OAL from reviewing the ADs for consistency with the law, clarity, and necessity.

NSH AD #485, has been issued, utilized, enforced, and primarily applied patients in NSH Program I Ward and should be legally revised to comply with relevant state and federal constitutional, decision, and statutory laws detailing the rights mental patients confined in state hospitals have concerning their outgoing and incoming legal, personal, business, and religious mail and packages and made a regulation codified in the California Code of Regulations.

NSH AD #485, page 6, paragraph “B,” sentence 3, states verbatim that “Unit staff shall maintain a log of all outgoing legal correspondence, to include client’s name, date recipient, and staff’s signature.” However, upon information and belief, this is rarely done and patients have to argue with staff to get them to comply with this. Nevertheless, upon information and belief, patients are not given receipts for their legal mail and on at least one occasion when a patient asked for a copy of the log of all his outgoing legal correspondence he was told the log was lost.

All courts have time limits and if a person incarcerated in a prison or a mental institution does not file a legal document with a court within a specified time, the matter can be dismissed and/or other sanctions can be imposed unless the person has proof they mailed the letter on time. The courts recognize that prisons and other institutions’ mail systems are not perfect and mail is some times lost and service is sometimes slow and this has caused prisoners to be late filing notices of appeal, and the courts realized this is not fair so the courts made a law called the “Prison–delivery” Rule. The way I read and allege the “Prison–delivery” Rule works is that prisoners are given a dated and signed receipt for their legal mail when they mail their mail and if any legal mail is late or lost, etc., the prisoner can send a copy of their receipt to the court to verify he or she mailed the letter on time and the receipt excuses any tardiness. I allege the California Supreme Court reaffirmed the “Prison–delivery” Rule is the case of *In re Jordan* (1992) 4 Cal.4th 116, and enunciated “[a] prisoner’s notice of appeal is deemed to have been filed in the office of the appropriate county clerk on the date, within the filing period prescribed by rule 31(a), on which it was delivered to the prison authorities. If the notice of appeal is received by the county clerk following expiration of the 60–day filing period, the prisoner who seeks to pursue his or her appellate rights has the burden of establishing that the

notice of appeal was delivered to prison authorities within the 60-day period.”

It should also be mandatory that a secure mailbox is placed on every ward in every mental institution and only the personnel from the mailroom have a key to this box and this would avoid mail being lost between the Ward Office, the Program Office, and then the mailroom as sometimes is the case, as the procedure now is.

Various other State and Federal Court documents, in addition to notices of appeal, also have filing time limits and the same rational applies if these documents are late or lost after an inmate mails his or here legal papers to the Courts, and it should be mandatory in the California Code of regulations in all cases that inmates receive a dated receipt when Court documents are given to the staff to place in a ward mail box to be mailed to the Courts.

AD #485 and an attachment to AD #763 requires patients to submit all their outgoing mail, legal and otherwise, to the staff unsealed before mailing for the staff to inspect for contraband, but the Supervising staff will not provide a verbal or written list of what is considered contraband for mailing out of the institution.

I allege as I understand this, the earlier California Supreme Court case also called *In re Jordan* (1972), found in 7 Cal.3d 930, states that prisoners can seal all their outgoing legal mail, and federal and state courts are in agreement that persons judicially committed to mental hospitals have more rights, and are supposed to receive “more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish,” and this includes rights concerning all the mental patients’ mail. (*Sharp vs. Weston*, 233 F. 3d 1166, 1172 (9th Cir. 2000), quoting *Youngberg v. Romeo* (1982) 457 U.S. 307 at 322, 102 S.Ct. 2452; Cf. *Estelle v. Gamble*, 429 U.S. 97, 104, 97 S.Ct. 285, 291, 50 L.Ed.2d 251 (1976) Moreover, mentally disordered persons—regardless of their path to the institution—should be regarded as patients rather than inmates in institutions (*Department of Developmental Services v. Ladd* (1990) 224 Cal.App. 3d 128, 137–138), and “mentally disordered persons charged with crime or to the criminally insane subject to judicial commitment shall be treated, not as criminals, but as sick persons.” (California Welfare and Institutions Code, § 6250.)

Furthermore, *People v. Buttes* states in pertinent part that a person found not guilty by reason of insanity “is found not guilty of committing the crime.” (Pen. Code, § 1026).” (See *People v. Buttes* (1982) 134 Cal.App.3d 116, 122.) The *People v. Buttes* Court at p. 122, explains the California Supreme Court in *In re Franklin* (1972) 7 Cal.3d 126, 141–142, quoted from *Bolton v. Harris* (D.C. Cir. 1968) 395 F.2d 642, 651. *Bolton v. Harris* recognizes that “patient[s] committed to mental hospi-

tal after being ‘found not guilty of offense by reason of insanity’ must prove freedom from such abnormal mental condition as would make individual dangerous to himself or community in reasonably foreseeable future.” (See *Bolton v. Harris*, 395 F.2d 642 (1968) (Italics added.) The point is that an agency such as NSH or any other agency should not impose regulations and/or “underground regulations” that are more restrictive than the regulations imposed on persons duly convicted of crimes that are confined in state prisons.

There is no valid legal or other logic, and there is no legitimate penological reason, to force mental patients to submit all their outgoing legal mail unsealed to staff for inspection, and mental patients are supposed to receive more rights than prisoners. Mental patients should also not be required to submit all their outgoing personal, religious, and business mail to staff for inspection. It is hard to imagine what contraband mental patients would want to send out of a mental institution to the Courts, lawyers, Church organizations, businesses, or their families. It seems only logical that any mental patient capable of securing true contraband would keep the same for his or her own use and not send out of the institution. (See *In re Jordan* (1972) 7 Cal.3d 930, 937, citing *Marsh v. Moore* (D.Mass. 1971) 325 F.Supp. 392, 395) (“At most, there appears to be only a very remote and wholly speculative danger that an attorney, an officer of this court, would assist a prisoner in avoiding legitimate prison regulations.”)

Upon information and belief NSH did not comply with the requirements set forth in the Government Code concerning the APA and OAL, and AD # 763 is an alleged “underground regulation, that has been issued, utilized, enforced, and applied to patients throughout NSH, and AD #763 should be legally revised and codified in the California Code of Regulations.

AD# 763 does not reflect or state that mental patients are supposed to receive better treatment, more considerate conditions of confinement, more rights, and AD # 763 does not reflect or state any of this and does not state or reflect that mental patients cannot be subjected to “civil death” and the prisoners rights listed in Penal Code, § 2601, et seq., essentially give prisoners more rights and better treatment than mental patients, inter alia.

Mental patients have the right to (1) engage in the protected conduct of mailing complaints to friends, family, the courts, and to human rights organizations, (2) the adverse action of NSH requiring patients to submit all their outgoing mail to staff unsealed for inspection would deter a person of ordinary firmness from continuing to engage in that conduct, and (3) it is alleged the adverse action apparently was motivated, at least in part, to dissuade, deter and prevent patients from exercising protected conduct, and this is unconstitu-

tional. (See *Herron v. Harrison*, 203 F.3d 410, 415 (6th Cir. 2000); *Bell v. Johnson*, 308 F.3d 594, 600 (6th Cir. 2002); *Spruytte v. Hoffner*, 181 F.Supp.2d 736, 741 (W.D. Mich. 2001); *Toolasprashad v. Bureau of Prisons*, 286 F.3d 576, 585 (D.C. Cir. 2002), citing *Crawford-El v. Britton*, 93 F.3d 813, 826 (D.C.Cir.1996), rev'd on other grounds, 523 U.S. 574, 118 S.Ct. 1584; *Gomez v. Vernon*, 255 F.3d 1118, 1123 (9th Cir, 2001); *Hines v. Gomez*, 108 F.3d 265, 268 (9th Cir. 1997); *Schwartzman v. Valenzuela*, 846 F.2d 1209, 1212 (9th Cir. 1988), et al.)

The Consent Judgment the US Justice Department made with NSH on May 2, 2006, provides at page 75(J) "Each State Hospital unconditionally permits individuals to exercise their constitutional rights of free speech, including the right to petition the government for redress of grievances without state monitoring and provides them due process," but NSH staff requiring patients to submit their outgoing mail to staff unsealed for inspection and mailing does not unconditionally permit individuals to exercise their constitutional rights of free speech and constitutes state monitoring of free speech.

Public Policy Argument

The issues presented are meritorious and issues of broad public interest likely to recur (*In re Lee* (1978) 78 Cal.App.3d 753, 756; *In re William M.* (1970) 3 Cal.3d 16, 23-25 (89 Cal.Rptr. 33, 473 P.2d 737, and cases cited) and personify cases where persons at low levels of society are perpetually deprived of constitutional rights; and should not be left utterly remediless and defenseless against repetitions of unconstitutional and unlawful conduct. (*Sibron v. New York* (1968) 392 U.S. 40, 52-53; see also *In re John Ballay* (1973) 482 F.2d 648, 651, citing *Sibron v. New York*, 392 U.S. 40, at p. 57)

Request

I request the AOL to determine whether or not NSH is complying with Government Code, § 11340.5 when it makes regulations and specifically if NSH ADs #485; 763 were put through the procedures set forth in the Government Code, the APA, and the AOL and I request the AOL to determine if ADs #485; 763 are underground regulations based on the foregoing information and any other criteria.

I certify that I mailed a copy of this petition challenging ADs #485 and #763 to the California Department of Mental Health to: Stephen W. Mayberg, Ph.D. Director, California Department of Mental Health (916) 654-2309, 1600 9th Street, Rm. 151, Sacramento, CA 95814."

Sincerely,

/s/

William Sargent

EXHIBIT B

CALIFORNIA DEPARTMENT OF MENTAL HEALTH

1600 Ninth Street
Sacramento, CA 95814

CERTIFICATION PURSUANT TO 1 CCR 280

I, Cynthia A. Radavsky, Deputy Director of Long Term Care Services, California Department of Mental Health (Department), hereby certify:

1. The Department received a copy of a petition filed with the California Office of Administrative Law by William Sargent, on or about September 29, 2008. A copy of the petition is attached hereto as Exhibit A.
2. The Department will not issue, use, enforce, or attempt to enforce the alleged underground regulation, Napa State Hospital Administrative Directive No. 763.
3. A copy of the certification was sent to the petitioner by certified mail, and a copy of the receipt is attached hereto as Exhibit B.

/s/

Cynthia A. Radavsky

Deputy Director

Long Term Care Services

California Department of Mental Health

Dated 12-8-08

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DISAPPROVAL DECISION

DEPARTMENT OF REHABILITATION

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW**

In re:

DEPARTMENT OF REHABILITATION

REGULATORY ACTION:

Title 9, California Code of
Regulations

ADOPT SECTIONS 7212.1, 7212.2,
7212.3, AND 7212.4

AMEND SECTIONS 7210, 7211, AND 7212

**DECISION OF DISAPPROVAL
OF REGULATORY ACTION**

(Gov. Code, sec. 11349.3)

OAL File No. 2008-1024-02S

SUMMARY OF REGULATORY ACTION

The Department of Rehabilitation (Department) by this regulatory action sought to amend title 9, California Code of Regulations, concerning the Business Enterprises Program for the Blind. Specifically, this regulatory action would have replaced existing regulations and adopted new regulations covering general provisions, definitions, eligibility requirements, applicant assessment, interview, referral, vendor training program, vendor-trainers, client-trainee responsibilities, and in-service and upward mobility training.

DECISION

On December 10, 2008, the Office of Administrative Law (OAL) disapproved the above referenced regulatory action for the following reasons: failure to make a change to the regulations available to the public as required by Government Code sections 11346.2 and 11346.8; failure to comply with the clarity and necessity standards of Government Code section 11349.1; and failure to include information in the initial statement of reasons and the final statement of reasons required by section 11346.2(b)(1) of the Government Code and sections 10(b)(2) and 20(c)(1) of title 1 of the California Code of Regulations.

Date: December 12, 2008

CRAIG S. TARPENNING
Senior Staff Counsel

for: SUSAN LAPSLEY
Director

Original: Tony Sauer
cc: Lisa Niegler

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2008-1114-01

BOARD OF FORESTRY AND FIRE PROTECTION
Proposed Revisions To Address Inconsistencies in
Rules Pertaining to Filing Locations

This non-sub adds the term CAL FIRE Review Team Office to the definition section Title 14 section 895.1. This term replaces the term "regional office" throughout CAL FIRE's regulations. Other changes include adding the statutory definition of "District" and making grammatical corrections.

Title 14

California Code of Regulations

ADOPT: 1032 AMEND: 895, 895.1, 929.1, 949.1,
969.1, 1032.7, 1032.9, 1037.3, 1054.5, 1055.3,
1056.3, 1090.1, 1090.2, 1090.4, 1090.6, 1090.17,
1092.03, 1092.04, 1092.06, 1092.18, 1104.3 RE-
PEAL: 1032

Filed 12/17/2008

Agency Contact:

Christopher Zimny

(916) 653-9418

File# 2008-1114-06

BOARD OF OCCUPATIONAL THERAPY
Ethical Standards of Practice

This amendment to Title 16 section 4170 requires occupational therapy practitioners to report "...acts constituting grounds for discipline" instead of merely "...unprofessional conduct." Essentially this change

extends the requirement to include all items listed in B&P Code section 2570.28 instead of just the items that fall under unprofessional conduct.

Title 16
California Code of Regulations
AMEND: 4170
Filed 12/17/2008
Effective 01/16/2009
Agency Contact: Heather Martin (916) 263-2294

File# 2008-1203-01
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Inmate Trust Account Interest

This regulatory action describes the process for California Department of Corrections and Rehabilitation to deposit any accruing interest on inmate funds into an individual inmate trust account and the process for distribution from this account.

Title 15
California Code of Regulations
ADOPT: 3099
Filed 12/16/2008
Effective 12/16/2008
Agency Contact: Gail Long (916) 341-7329

File# 2008-1028-01
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Disciplinary Credit Forfeiture Schedule

The Department of Corrections and Rehabilitation (Department) amends California Code of Regulations, Title 15, section 3323(d)(7)(A). This is a change without regulatory effect pursuant to section 100 of Title 1 of the California Code of Regulations as the Department is changing an incorrect reference that resulted from re-numbering sections through regular rulemaking in file 2008-0711-02S.

Title 15
California Code of Regulations
AMEND: 3323
Filed 12/11/2008
Agency Contact: Gail Long (916) 341-7329

File# 2008-1124-01
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Behavior Management Unit

This regulatory action is the first readoption of a previous regulatory action certified by the Department as an operational necessity pursuant to Penal Code section 5058.3 and was deemed an emergency by the Legislature. This emergency regulatory action established a

Behavior Modification Unit to provide alternate General Population housing and programming for those inmates who are (1) deemed program failures, (2) found guilty of a Security Housing Unit offense or whose in-custody behavior reflects a propensity towards disruptive behavior, (3) are released from the Administrative Segregation Unit/Security Housing Unit, or (4) engage in gang related activity.

Title 15
California Code of Regulations
ADOPT: 3334 AMEND: 3000
Filed 12/15/2008
Effective 12/15/2008
Agency Contact:
Fernando Azevedo (916) 323-6156

File# 2008-1031-02
DEPARTMENT OF FOOD AND AGRICULTURE
Japanese Beetle Eradication Area

This certificate of compliance makes permanent the emergency regulatory action (OAL file no. 2008-0627-01E; DFA file no. PH0897) that established Merced County as an area of eradication for the Japanese beetle (*Popillia japonica*).

Title 3
California Code of Regulations
AMEND: 3589
Filed 12/10/2008
Agency Contact:
Stephen S. Brown (916) 654-1017

File# 2008-1205-03
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This emergency regulatory action will expand the contiguous regulated quarantine area in the Bay Area counties by approximately 38 square miles; in Monterey, San Benito, Santa Clara and Santa Cruz counties by approximately five square miles; and in Napa, Solano and Sonoma counties by approximately 44 square miles for the light brown apple moth "LBAM" (*Epiphyas postvittana*) due to recent findings of the pest. The effect of this amendment of the regulation is to establish the authority for the State to perform quarantine activities against LBAM in these additional areas.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 12/12/2008
Effective 12/12/2008
Agency Contact:
Stephen S. Brown (916) 654-1017

File# 2008-1112-03

DEPARTMENT OF FOOD AND AGRICULTURE
Reporting Periods

This amendment to Title 3 section 1358 resulted from a petition requesting the change from the Pacific Egg & Poultry Association (PEPA). The amendment changes the reporting period from one based on thirteen 4-week periods to one based on a system in use by the industry consisting of twelve reporting periods; eight 4-week and four 5-week reporting periods. This is known as the 4-4-5 Retail Accounting Calendar.

Title 3
California Code of Regulations
AMEND: 1358(b)
Filed 12/16/2008
Effective 06/28/2009
Agency Contact:
Lisa M. Gonzales (916) 445-4243

File# 2008-1024-03

FISH AND GAME COMMISSION
Prawn and Shrimp Trawling

This action updates the regulations for the commercial shrimp and prawn trawl fishery, reorganizing them to improve clarity and amending them to conform to changes in Fish and Game Code sections 8841 and 8842, including provisions that became operative January 1, 2008.

Title 14
California Code of Regulations
ADOPT: 120.1, 120.2 AMEND: 120, 120.3 REPEAL: 120.01
Filed 12/10/2008
Effective 01/09/2009
Agency Contact:
Sherrie Fonbuena (916) 654-9866

File# 2008-1030-01

MEDICAL BOARD OF CALIFORNIA
Continuing Education Required

This action amends the continuing education requirements for physicians specified in title 16, California Code of Regulations, section 1336 to clarify the minimum hours of continuing education and the specified reporting period for physician license renewal, and to make the requirements consistent with other physician continuing education and license renewal requirements. The amendments require a minimum of 50 continuing education hours during the two year period immediately preceding the expiration date of the license (25 hours for physicians whose initial license was issued less than 13 months from the expiration date), and

changes calculation of the renewal period from calendar year to the biennial renewal cycle.

Title 16
California Code of Regulations
AMEND: 1336
Filed 12/11/2008
Effective 01/10/2009
Agency Contact:
Kevin A. Schunke (916) 263-2368

File# 2008-1027-03

SAN FRANCISCO BAY CONSERVATION AND
DEVELOPMENT COMMISSION
Permit Application Fees

This rulemaking amends Title 14, Division 5, Appendix M to provide additional categories of San Francisco Bay Conservation and Development Commission jurisdiction projects for purposes of determining development permit application fees. Categories of projects will be based on total project costs rather than the cost of permit application review services by the Commission and Commission Staff so as to better generate the target revenue of 20% of regulatory program cost. The rule-making also provides for recalculation of application fees every five years instead of annually and the use of a fee adjustment factor.

Title 14
California Code of Regulations
AMEND: Division 5, Appendix M
Filed 12/11/2008
Effective 01/10/2009
Agency Contact:
Ellen M. Sampson (415) 352-3600

File# 2008-1107-01

STATE PERSONNEL BOARD
Local Agency Personnel Standards

This action changes the required procedure for local agencies that must certify persons eligible for inclusion on a reemployment list, increasing the number of names to be certified from five to ten.

Title 2
California Code of Regulations
AMEND: 17463, 17470, 17519
Filed 12/15/2008
Effective 01/14/2009
Agency Contact: Bruce Monfross (916) 653-1456

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN July 16, 2008 TO
December 17, 2008**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations

titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

12/15/08 AMEND: 17463, 17470, 17519
 12/09/08 ADOPT: 25100
 12/08/08 AMEND: 1700
 11/03/08 AMEND: 647.1, 647.2, 647.3, 647.20, 647.20.1, 647.21, 647.22, 647.23, 647.24, 647.25, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.36, 648.1, 648.3, 648.5, 649.20, 649.21
 10/31/08 AMEND: 18545, 18703.4, 18730, 18940.2, 18942.1, 18943
 10/31/08 ADOPT: 18402.1 AMEND: 18427
 10/22/08 ADOPT: 59600
 10/21/08 ADOPT: 1859.41.1, 1859.42.1 AMEND: 1859.2, 1859.41, 1859.42, 1859.43, 1859.51, 1859.147, Form SAB 50-01, Form SAB 50-03
 10/20/08 ADOPT: 20120, 20121, 20122, 20123, 20124, 20125, 20126, 20127
 09/04/08 ADOPT: 18530.45
 09/04/08 AMEND: 18946.4
 08/14/08 AMEND: 1859.2, 1859.121, 1859.122, 1859.127, 1859.129
 08/08/08 ADOPT: 21905.5 AMEND: 21903, 21905
 07/16/08 ADOPT: 18946.6

Title 3

12/16/08 AMEND: 1358(b)
 12/12/08 AMEND: 3434(b)
 12/10/08 AMEND: 3589
 12/04/08 AMEND: 3435(b)
 11/26/08 AMEND: 3406(b)
 11/20/08 ADOPT: 6400
 11/12/08 AMEND: 3591.5(a)
 11/12/08 AMEND: 3434(b)
 11/07/08 AMEND: 3433(b)
 10/30/08 ADOPT: 1430.142 AMEND: 1430.43 REPEAL: 1430.44.5
 10/29/08 AMEND: 3435(b)
 10/28/08 ADOPT: 3408
 10/22/08 AMEND: 3700(c)
 10/20/08 AMEND: 3433(b)
 10/20/08 AMEND: 3434(b)
 10/17/08 AMEND: 3423(b)
 10/15/08 AMEND: 3433(b)
 10/14/08 AMEND: 3434(b)
 10/14/08 AMEND: 3423(b)
 10/01/08 AMEND: 3434(b)

09/24/08 AMEND: 810.1 REPEAL: 810
 09/23/08 AMEND: 3591.20(a)
 09/23/08 AMEND: 3434(b)
 09/18/08 AMEND: 3591.20(a)
 09/17/08 AMEND: 3435(b)
 09/11/08 AMEND: 3591.20(a)
 09/10/08 AMEND: 3434
 09/05/08 ADOPT: 3435
 09/03/08 AMEND: 6452.2
 09/02/08 AMEND: 3433(b)
 09/02/08 AMEND: 3591.6(a)
 08/26/08 AMEND: 3434(b)
 08/25/08 AMEND: 3423(b)
 08/18/08 AMEND: 6738, 6739
 08/18/08 AMEND: 3434(b)
 08/13/08 AMEND: 3434(b)
 08/12/08 AMEND: 3406(b)
 08/11/08 AMEND: 3406(b)
 08/01/08 AMEND: 3589(a)
 08/01/08 ADOPT: 3591.22
 07/28/08 AMEND: 3434(b)
 07/25/08 AMEND: 902.9
 07/24/08 ADOPT: 3591.21
 07/22/08 AMEND: 3417(b)
 07/16/08 AMEND: 3700
 07/16/08 AMEND: 3406

Title 4

11/24/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101
 11/17/08 AMEND: 1505
 10/30/08 AMEND: 1606
 10/16/08 ADOPT: 12047, 12048, 12050, 12348 AMEND: 12002
 10/03/08 ADOPT: 12008 AMEND: 12122, 12200.14, 12200.20, 12202, 12203A, 12203.2, 12205.1, 12218.13, 12220.14, 12220.20, 12220.20A, 12222, 12237, 12301, 12342, 12343, 12344, 12345
 09/29/08 AMEND: 1843.2
 09/02/08 AMEND: 1850
 08/25/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101
 08/21/08 ADOPT: 1634 AMEND: 1420
 08/12/08 ADOPT: 4180, 4181
 08/08/08 AMEND: 12002, 12100, 12101, 12120, 12122, 12128, 12130, 12140, 12200, 12200.3, 12200.7, 12200.9, 12200.10A,

	12200.10B, 12200.10C, 12200.11, 12200.13, 12200.14, 12200.16, 12200.17, 12200.18, 12200.20, 12200.21, 12201, 12202, 12203, 12203A, 12203.1, 12203.2, 12203.3, 12203.5, 12204, 12205, 12205.1, 12218, 12218.1, 12218.5, 12218.7, 12218.11, 12220, 12220.3, 12220.13, 12220.14, 12220.16, 12220.18, 12220.20, 12220.20A, 12220.21, 12220.23, 12221, 12222, 12223, 12224, 12225, 12225.1, 12233, 12234, 12235, 12236, 12300, 12301, 12301.1, 12302, 12303, 12304, 12305, 12306, 12308, 12309, 12310, 12335, 12341, 12342, 12343, 12344, 12345, 12347, 12358, 12359, 12360, 12370, 12400, 12401, 12402, 12403, 12404, 12405, 12460, 12463, 12464, 12466, 12550, 12552, 12554, 12556, 12558, 12560, 12562, 12564, 12566, 12568, 12590		10133.55, 10133.56, 10133.57, 10133.58 REPEAL: 10133.3, 10133.50
		11/17/08	ADOPT: 10210, 10211, 10212, 10213, 10214, 10215, 10216, 10217, 10218, 10222, 10223, 10225, 10227, 10228, 10229, 10230, 10232, 10232.1, 10232.2, 10233, 10236, 10240, 10241, 10243, 10244, 10245, 10246, 10250, 10250.1, 10251, 10253, 10253.1, 10254, 10256, 10260, 10270, 10271, 10272, 10273, 10275, 10280, 10281, 10290, 10291, 10293, 10294, 10294.5, 10295, 10296, 10297 AMEND: 10252, 10252.1 REPEAL: 10250
		11/17/08	ADOPT: 10150.1, 10150.2, 10150.3, 10150.4, 10151, 10151.1, 10166.1 AMEND: 10150, 10160, 10160.1, 10160.5, 10161, 10161.1, 10162, 10164, 10165, 10166, 10167 REPEAL: 10168
		11/17/08	ADOPT: 10397, 10403, 10409, 10508, 10550, 10593, 10603, 10629, 10770.5, 10770.6, 10782, 10785, 10844, 10845 AMEND: 10301, 10302, 10324, 10346, 10400, 10410, 10411, 10412, 10450, 10500, 10505, 10507, 10510, 10541, 10561, 10589, 10608, 10616, 10626, 10750, 10751, 10753, 10754, 10755, 10770, 10779, 10840, 10842, 10843, 10846, 10848, 10850, 10860, 10865, 10866, 10946, 10950, 10953 REPEAL: 10306, 10308, 10347, 10390, 10391, 10392, 10395, 10396, 10414, 10415, 10416, 10417, 10514, 10520, 10548, 10555, 10563, 10590, 10591, 10592, 10610, 10630, 10758, 10762, 10771, 10867, 10890, 10952, 10955, 10957, 10995, 10996
08/04/08	AMEND: 1843.2		
Title 5			
12/09/08	ADOPT: 18131.1 AMEND: 18131		
11/06/08	AMEND: 42723		
10/17/08	ADOPT: 100000, 100001, 100002, 100003, 100004, 100005, 100006, 100007, 100008, 100009, 100010, 100011, 100012, 100013, 100014, 100015		
10/14/08	ADOPT: 42729		
09/10/08	AMEND: 41000		
09/09/08	ADOPT: 19828.3, 19837.2 AMEND: 19816, 19816.1, 19828.2, 19837.1, 19846		
08/11/08	AMEND: 41000		
08/04/08	ADOPT: 15575, 15576, 15577, 15578		
07/16/08	AMEND: 18272		
Title 8			
12/02/08	AMEND: 2940.6, Appendix C		
12/01/08	AMEND: 5198(f)(2)(A)		
11/19/08	AMEND: 1658(p)		
11/17/08	ADOPT: 10116, 10116.1, 10116.2, 10116.3, 10116.5, 10116.6, 10116.7, 10116.8 AMEND: 10123.1 renumbered to 10116.4, 10001 renumbered to 10116.9, 10002 renumbered to 10117, 10003 renumbered to 10118, 10004 renumbered to 10119, 10005 renumbered to 10120, 10123, 10127, 10127.1, 10128, 10133.13, 10133.14, 10133.16, 10133.22, 10133.53, 10133.54,		10133.55, 10133.56, 10133.57, 10133.58 REPEAL: 10133.3, 10133.50
		11/17/08	ADOPT: 10210, 10211, 10212, 10213, 10214, 10215, 10216, 10217, 10218, 10222, 10223, 10225, 10227, 10228, 10229, 10230, 10232, 10232.1, 10232.2, 10233, 10236, 10240, 10241, 10243, 10244, 10245, 10246, 10250, 10250.1, 10251, 10253, 10253.1, 10254, 10256, 10260, 10270, 10271, 10272, 10273, 10275, 10280, 10281, 10290, 10291, 10293, 10294, 10294.5, 10295, 10296, 10297 AMEND: 10252, 10252.1 REPEAL: 10250
		11/17/08	ADOPT: 10150.1, 10150.2, 10150.3, 10150.4, 10151, 10151.1, 10166.1 AMEND: 10150, 10160, 10160.1, 10160.5, 10161, 10161.1, 10162, 10164, 10165, 10166, 10167 REPEAL: 10168
		11/17/08	ADOPT: 10397, 10403, 10409, 10508, 10550, 10593, 10603, 10629, 10770.5, 10770.6, 10782, 10785, 10844, 10845 AMEND: 10301, 10302, 10324, 10346, 10400, 10410, 10411, 10412, 10450, 10500, 10505, 10507, 10510, 10541, 10561, 10589, 10608, 10616, 10626, 10750, 10751, 10753, 10754, 10755, 10770, 10779, 10840, 10842, 10843, 10846, 10848, 10850, 10860, 10865, 10866, 10946, 10950, 10953 REPEAL: 10306, 10308, 10347, 10390, 10391, 10392, 10395, 10396, 10414, 10415, 10416, 10417, 10514, 10520, 10548, 10555, 10563, 10590, 10591, 10592, 10610, 10630, 10758, 10762, 10771, 10867, 10890, 10952, 10955, 10957, 10995, 10996
		11/12/08	AMEND: 15600, 15601, 15602, 15603, 15604, 15605, 15606, 15607, 15611
		11/06/08	AMEND: 2540.8, 2540.9, 2548.23, 2719, 2740, 2741, 2880, 2980
		10/01/08	AMEND: 3412, 3413, 3414, 3416
		09/23/08	AMEND: 5155
		09/22/08	ADOPT: 1530.1
		09/17/08	AMEND: 1512
		08/26/08	AMEND: 5168, 6775
		08/25/08	ADOPT: 9721.11, 9721.12, 9721.13, 9721.14, 9721.21, 9721.33 AMEND: 9720.1, 9720.2, 9721.1, 9721.2, 9721.31, 9721.32, 9722, 9722.1, 9722.2, 9723
		08/08/08	AMEND: 1532.1
		08/04/08	AMEND: 3649

CALIFORNIA REGULATORY NOTICE REGISTER 2008, VOLUME NO. 52-Z

08/04/08	AMEND: Appendix C following section 560, Appendices A, B, and C following section 1938, and section 5001	10/20/08	ADOPT: 346.00, 346.02, 346.04, 346.06, 346.08, 346.10, 346.12, 346.14, 346.16
07/30/08	AMEND: 1524	10/07/08	AMEND: 935
07/18/08	AMEND: 290.0, 290.1, 291.0, 291.1, 291.2, 291.5, 292.0, 294.0, 295.0, 296.0, 296.1, 296.2, 296.3, 296.4	10/02/08	AMEND: 423.00
07/18/08	AMEND: 2500.7	10/02/08	AMEND: 15.00, 15.03
07/17/08	AMEND: 4885, 4924, 5004	09/08/08	AMEND: 2449
07/17/08	AMEND: 1604.24, 1604.26	08/29/08	ADOPT: 2660(a)(0.5), 2260(a)(0.7), 2260(a)(6.9), 2260(a)(7.5), 2260(a)(8.5), 2260(a)(10.5), 2260(a)(10.7), 2260(a)(19.7), 2260(a)(19.8), 2260(a)(23.5), 2260(a)(23.7), 2260(a)(37), 2260(a)(38), 2260(a)(39), 2262.3(d), 2264.2(a)(3), 2264.2(b)(5), 2264.2(d), 2265(c)(4), 2265.1, 2265.5, 2266(b)(3), 2266(b)(4), 2266(b)(5)
Title 9			AMEND: 2261, 2262, 2262.3, 2262.4, 2262.5, 2262.9, 2263, 2263.7, 2264.2, 2265, 2266, 2266.5, 2270, 2271, 2273
11/18/08	ADOPT: 9550	08/13/08	ADOPT: 619.2 AMEND: 615, 615.1, 616, 617, 618, 619, 619.1
Title 10		Title 13, 17	
12/02/08	AMEND: 2652.1	12/03/08	AMEND: 2299.3, 93118.3
11/12/08	AMEND: 2498.4.9	10/20/08	ADOPT: 2299.5, 93118.5
11/12/08	AMEND: 2498.4.9	Title 14	
11/07/08	AMEND: 2498.5	12/17/08	ADOPT: 1032 AMEND: 895, 895.1, 929.1, 949.1, 969.1, 1032.7, 1032.9, 1037.3, 1054.5, 1055.3, 1056.3, 1090.1, 1090.2, 1090.4, 1090.6, 1090.17, 1092.03, 1092.04, 1092.06, 1092.18, 1104.3 REPEAL: 1032
11/03/08	AMEND: 2498.5	12/11/08	AMEND: Division 5, Appendix M
09/22/08	AMEND: 2699.6500, 2699.6803, 2699.6805	12/10/08	ADOPT: 120.1, 120.2 AMEND: 120, 120.3 REPEAL: 120.01
09/15/08	AMEND: 2699.6619, 2699.6700, 2699.6703, 2699.6705, 2699.6709, 2699.6711, 2699.6713, 2699.6715, 2699.6717, 2699.6721, 2699.6723, 2699.6725	11/26/08	AMEND: 1257
09/11/08	AMEND: 2330.1	11/24/08	AMEND: 749.3
08/15/08	ADOPT: 2844 AMEND: 2840, 2842	11/13/08	ADOPT: 18660.40
08/14/08	AMEND: 2699.100, 2699.201, 2699.205, 2699.207, 2699.209, 2699.400	11/07/08	AMEND: 895.1, 919.9, 939.9
08/04/08	AMEND: 5000, 5110, 5111, 5112, 5113, 5114, 5116, 5117 REPEAL: 5119	11/07/08	AMEND: 1038(i)
07/30/08	AMEND: 2498.6	11/07/08	AMEND: 895.1, 898, 914.8, 916, 916.2, 916.9, 916.11, 916.12, 923.3, 923.9, 934.8, 936, 936.2, 936.9, 936.11, 936.12, 943.3, 943.9, 954.8, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963
07/24/08	AMEND: 2498.4.9	10/30/08	AMEND: 29.85
07/23/08	AMEND: 2498.4.9	10/23/08	AMEND: 163, 164
07/23/08	AMEND: 2498.4.9	10/22/08	AMEND: 1052.4
07/21/08	ADOPT: 2330.1, 2330.3, 2330.4, 2330.5	10/21/08	AMEND: 15387 Appendix C
07/17/08	AMEND: 2498.6	10/09/08	AMEND: 791, 791.7, 795
Title 11		09/22/08	AMEND: 4900 REPEAL: 4901, 4902, 4903, 4904
12/02/08	AMEND: 1005, 1007, 1008	09/15/08	AMEND: 502
11/07/08	AMEND: 1005, 1081	09/11/08	AMEND: 10310, 10360, 10810, 10820, Appendix D, Appendix F
10/27/08	AMEND: 1005, 1007, 1008, 1052		
10/16/08	AMEND: 1081		
10/14/08	AMEND: 1005		
10/02/08	AMEND: 1003, 9040, 9041, 9073(b)		
10/02/08	AMEND: 1081		
09/23/08	ADOPT: 44.3		
Title 13			
12/05/08	AMEND: 110.04		
12/01/08	AMEND: 1956.8		
11/24/08	ADOPT: 2027		
11/03/08	AMEND: 25.06, 25.07, 25.08, 25.09, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21, 25.22		

09/09/08	ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5, 17987.6	Article 4 and title, 3560, 3561, 3562, 3563, 3564, new Article 5 and title, 3570, 3571, new Article 6 and title, 3580, 3581, 3582, new Article 7 and title, new Article 8 and title, new Article 9 and title, new Article 10 and title, new Article 12 and title, 3640, new Article 13 and title, 3650, 3651, 3652, 3652.1, 3653, 3654, new Article 14 and title, 3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, new Article 15 and title, 3720, 3721, 3721.1, 3722, 3723, new Article 16 untitled, 3730, new Article 17 and title, new Article 18 and title, 3750, 3751, 3752, 3753, 3754, 3755, 3756, new Article 19 and title, 3760, 3761, 3762, 3763, 3764, 3765, 3766, new Article 20 and title, 3770, 3771, and 3772. AMEND: 3604, 3605, 3605.5, 3701.1, 3705, 3706, 3801, 3802, renumber old Article 2 with title, and 3815.
09/04/08	AMEND: 670.2	
08/27/08	AMEND: 300	
08/25/08	ADOPT: 27.32 AMEND: 27.20(f), 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58	
08/18/08	AMEND: 749.3	
08/14/08	ADOPT: 3950, 3951, 3952, 3953, 3954, 3955, 3956, 3957, 3958, 3959, 3960, 3961, 3962, 3963, 3964, 3965	
08/12/08	ADOPT: 124	
08/11/08	AMEND: 503	
08/06/08	AMEND: 815.05, 818.02, 825.05, 827.02	
07/28/08	AMEND: 702	
07/23/08	AMEND: 7.50	
Title 15		
12/16/08	ADOPT: 3099	
12/15/08	ADOPT: 3334 AMEND: 3000	
12/11/08	AMEND: 3323	
12/09/08	AMEND: 3000, 3001, 3041.3, 3075.3, 3294.5, 3356, 3369.5, 3370, 3376.1, 3382, 3383, 3393, 3401, 3402, 3405, 3406, 3407, 3408, 3410, 3411, 3414, 3430, 3432, 3433	07/17/08 ADOPT: 3134.1 AMEND: 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147
11/26/08	ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792	Title 16
10/30/08	AMEND: 3000, 3375, 3376.1, 3379	12/17/08 AMEND: 4170
10/28/08	ADOPT: 3999.7	12/11/08 AMEND: 1336
10/23/08	ADOPT: 1417 AMEND: 1029, 1206, 1248, 1357, 1358, 1461	12/09/08 AMEND: 1399.25 REPEAL: 1399.26
10/15/08	ADOPT: 3999.6	11/24/08 AMEND: 1419, 1419.1, 1419.3
09/15/08	ADOPT: 3269	10/30/08 AMEND: 1399.571
09/03/08	AMEND: 2253	10/17/08 ADOPT: 1399.610, 1399.612 AMEND: 1399.502
08/29/08	AMEND: 3000, 3261.1, 3261.2, 3261.4, 3261.5, 3261.7, 3267	10/07/08 AMEND: 832.47
08/04/08	AMEND: 2041	10/02/08 AMEND: 3351.2
08/04/08	AMEND: 3000, 3005, 3006, 3008, 3009, 3011, 3012, 3013, 3015, 3016, 3290, 3310, 3313, 3314, 3315, 3317, 3318, 3320, 3323, 3327, 3328	09/29/08 AMEND: 2522, 2524, 2579, 2579.10 REPEAL: 2522.5, 2579.1
07/30/08	ADOPT: 3503, 3505, 3506, 3507, 3508, 3509, 3510, 3511, new Article 2 and title, 3520, 3521, 3521.1, 3521.2, 3521.3, 3521.4, 3521.5, 3521.6, 3522, 3523, 3524, 3525, 3526, 3527, new Article 3 and title, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, new	09/22/08 AMEND: 4154, 4155
		09/19/08 AMEND: 11.5, 12, 12.5, 37, 87.1
		09/10/08 ADOPT: 1028.2, 1028.3, 1028.4, 1028.5 AMEND: 1021
		08/27/08 AMEND: 2250 REPEAL: 2274, 2277
		08/25/08 AMEND: 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, 1399.489.1
		08/15/08 AMEND: 1361
		08/13/08 AMEND: 3394.6
		08/12/08 AMEND: 3394.4
		08/07/08 AMEND: 4161
		07/30/08 AMEND: 2649
		07/23/08 AMEND: 1399.152.2, 1399.153, 1399.153.3

07/18/08	AMEND: 134 REPEAL: 135	11/13/08	ADOPT: 97234, 97267 AMEND: 97215, 97225, 97226, 97227, 97241, 97244, 97248
Title 17		11/06/08	AMEND: 2706-2, 3302-1, 3303.1(c)-1
12/02/08	ADOPT: 95100, 95101, 95102, 95103, 95104, 95105, 95106, 95107, 95108, 95109, 95110, 95111, 95112, 95113, 95114, 95115, 95125, 95130, 95131, 95132, 95133	10/29/08	AMEND: 64413.1, 64414, 64431, 64432, 64432.2, 64432.8, 64433.3, 64445.1, 64447.2, 64482
10/30/08	AMEND: 100407, 100408	10/28/08	AMEND: 87102, 87105
09/24/08	AMEND: 52082, 56103, 56104, 58670	10/15/08	AMEND: 2051-3
09/18/08	ADOPT: 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, 94809, 94810	09/26/08	AMEND: 3258-1, 3267-1, 3267-2
09/05/08	ADOPT: 98100 REPEAL: 96100	08/07/08	AMEND: 51098.5, 51202.5, 51309.5, 51503.3
08/06/08	AMEND: 94006	Title 23	
Title 18		12/09/08	ADOPT: 3939.33
12/01/08	AMEND: 1602.5	12/01/08	ADOPT: 3949.6
11/14/08	AMEND: 1591, 1602	11/06/08	AMEND: 2200, 2200.4, 2200.5, 2200.6
09/24/08	AMEND: 1574	11/06/08	ADOPT: 3939.32
09/24/08	AMEND: 1599	11/05/08	AMEND: 1062, 1064, 1077, 3833.1
08/11/08	AMEND: 1807, 1828	10/22/08	ADOPT: 3989.7
08/05/08	AMEND: 3000	10/14/08	AMEND: 3939.19
07/16/08	AMEND: 5216, 5310, 5311, 5326.4, 5326.6, 5333, 5333.4, 5333.6, 5523.4	10/06/08	AMEND: 3939.20
Title 19		09/17/08	ADOPT: 3919.4
11/14/08	AMEND: 2900, 2910, 2915, 2920, 2930, 2940, 2945, 2950, 2955, 2960, 2965, 2966, 2970, 2980	Title 25	
09/24/08	AMEND: 560	12/05/08	ADOPT: 7150, 7151, 7152, 7153, 7154, 7155, 7156, 7157, 7158, 7159, 7160
09/24/08	AMEND: 906.3	10/08/08	AMEND: 4000, 4002, 4004, 4010, 4017, 4020, 4024, 4025, 4030, 4032, 4033, 4034.5, 4040, 4041, 4049.1, 4049.3, 4049.5, 4049.7, 4049.9, Appendix A
08/07/08	ADOPT: 1980.00, 1980.01, 1980.02, 1980.03, 1980.04, 1980.05, 1980.06, 1980.07, 1990.00, 1990.01, 1990.02, 1990.03, 1990.04, 1990.05, 1990.06, 1990.07, 1990.08, 1990.09, 1990.10, 1990.11, 1990.12, 1990.13		REPEAL: 4021, 4031.5, 4047, 4047.3, 4047.6, 4550, 4560, 4570, 4580, 4600, 4603, 4605, 4619, 4624, 4626, 4665, 4670, 4680, 4800, Appendix RV-P-1
Title 21		08/29/08	ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
11/26/08	AMEND: 6633.2	Title 27	
Title 22		12/02/08	AMEND: 25805(b)
12/09/08	AMEND: 51521	09/05/08	AMEND: 25601
12/09/08	AMEND: 100031, 100032, 100033, 100034, 100035, 100036, 100037, 100038, 100039, 100040, 100042, 100043 REPEAL: 100041	08/08/08	AMEND: 25705(b)
11/24/08	AMEND: 2706-1	Title 28	
11/20/08	AMEND: 3254(i)-2	09/15/08	ADOPT: 1300.71.39
		Title MPP	
		09/29/08	ADOPT: 14-611, 14-915, 14-916
			AMEND: 14-610
		09/18/08	AMEND: DSS MPP 63-102, 63-504